

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Economic Development and Technology, to which was referred House Bill No. 1182, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-1.1-12.1-1 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. For purposes of this
- 5 chapter:
- 6 (1) "Economic revitalization area" means an area which is within
- 7 the corporate limits of a city, town, or county which has become
- 8 undesirable for, or impossible of, normal development and
- 9 occupancy because of a lack of development, cessation of growth,
- 10 deterioration of improvements or character of occupancy, age,
- 11 obsolescence, substandard buildings, or other factors which have
- 12 impaired values or prevent a normal development of property or
- 13 use of property. The term "economic revitalization area" also
- 14 includes:
- 15 (A) any area where a facility or a group of facilities that are
- 16 technologically, economically, or energy obsolete are located
- 17 and where the obsolescence may lead to a decline in
- 18 employment and tax revenues; and
- 19 (B) a residentially distressed area, except as otherwise
- 20 provided in this chapter.
- 21 (2) "City" means any city in this state, and "town" means any

town incorporated under IC 36-5-1.

(3) "New manufacturing equipment" means any tangible personal property which:

(A) was installed after February 28, 1983, ~~and before January 1, 2006~~, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed;

(B) is used in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including but not limited to use to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(C) was acquired by its owner for use as described in clause (B) and was never before used by its owner for any purpose in Indiana.

However, notwithstanding any other law, the term includes tangible personal property that is used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products and was installed after March 1, 1993, and before March 2, 1996, even if the property was installed before the area where the property is located was designated as an economic revitalization area or the statement of benefits for the property was approved by the designating body.

(4) "Property" means a building or structure, but does not include land.

(5) "Redevelopment" means the construction of new structures, in economic revitalization areas, either:

(A) on unimproved real estate; or

(B) on real estate upon which a prior existing structure is demolished to allow for a new construction.

(6) "Rehabilitation" means the remodeling, repair, or betterment of property in any manner or any enlargement or extension of property.

(7) "Designating body" means the following:

(A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town.

(B) For a county containing a consolidated city, the

- 1 metropolitan development commission.
- 2 (8) "Deduction application" means either:
- 3 (A) the application filed in accordance with section 5 of this
- 4 chapter by a property owner who desires to obtain the
- 5 deduction provided by section 3 of this chapter; or
- 6 (B) the application filed in accordance with ~~section 5.5~~ **section**
- 7 **5.4** of this chapter by a person who desires to obtain the
- 8 deduction provided by section 4.5 of this chapter.
- 9 (9) "Designation application" means an application that is filed
- 10 with a designating body to assist that body in making a
- 11 determination about whether a particular area should be
- 12 designated as an economic revitalization area.
- 13 (10) "Hazardous waste" has the meaning set forth in
- 14 IC 13-11-2-99(a). The term includes waste determined to be a
- 15 hazardous waste under IC 13-22-2-3(b).
- 16 (11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a).
- 17 However, the term does not include dead animals or any animal
- 18 solid or semisolid wastes.
- 19 (12) "New research and development equipment" means tangible
- 20 personal property that:
- 21 (A) is installed after June 30, 2000, ~~and before January 1,~~
- 22 ~~2006~~; in an economic revitalization area in which a deduction
- 23 for tangible personal property is allowed;
- 24 (B) consists of:
- 25 (i) laboratory equipment;
- 26 (ii) research and development equipment;
- 27 (iii) computers and computer software;
- 28 (iv) telecommunications equipment; or
- 29 (v) testing equipment;
- 30 (C) is used in research and development activities devoted
- 31 directly and exclusively to experimental or laboratory research
- 32 and development for new products, new uses of existing
- 33 products, or improving or testing existing products; and
- 34 (D) is acquired by the property owner for purposes described
- 35 in this subdivision and was never before used by the owner for
- 36 any purpose in Indiana.
- 37 The term does not include equipment installed in facilities used
- 38 for or in connection with efficiency surveys, management studies,

consumer surveys, economic surveys, advertising or promotion,
or research in connection with literacy, history, or similar projects.

(13) "New logistical distribution equipment" means tangible
personal property that:

(A) is installed after June 30, 2004, ~~and before January 1,~~
~~2006~~; in an economic revitalization area

~~(i) in which a deduction for tangible personal property is~~
~~allowed. and~~

~~(ii) located in a county referred to in section 2.3 of this~~
~~chapter, subject to section 2.3(c) of this chapter;~~

(B) consists of:

(i) racking equipment;

(ii) scanning or coding equipment;

(iii) separators;

(iv) conveyors;

(v) fork lifts or lifting equipment (including "walk behinds");

(vi) transitional moving equipment;

(vii) packaging equipment;

(viii) sorting and picking equipment; or

(ix) software for technology used in logistical distribution;

(C) is used for the storage or distribution of goods, services, or
information; and

(D) before being used as described in clause (C), was never
used by its owner for any purpose in Indiana.

(14) "New information technology equipment" means tangible
personal property that:

(A) is installed after June 30, 2004, ~~and before January 1,~~
~~2006~~; in an economic revitalization area

~~(i) in which a deduction for tangible personal property is~~
~~allowed. and~~

~~(ii) located in a county referred to in section 2.3 of this~~
~~chapter, subject to section 2.3(c) of this chapter;~~

(B) consists of equipment, including software, used in the
fields of:

(i) information processing;

(ii) office automation;

(iii) telecommunication facilities and networks;

(iv) informatics;

(v) network administration;

(vi) software development; and

(vii) fiber optics; and

(C) before being installed as described in clause (A), was never used by its owner for any purpose in Indiana.

SECTION 2. IC 6-1.1-12.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

(b) In a county containing a consolidated city or within a city or town, a designating body may find that a particular area within its jurisdiction is a residentially distressed area. Designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction shall be calculated as specified in section 4.1 of this chapter and the deduction is allowed for not more than five (5) years. In order to declare a particular area a residentially distressed area, the designating body must follow the same procedure that is required to designate an area as an economic revitalization area and must make all the following additional findings or all the additional findings described in subsection (c):

(1) The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multifamily dwellings designed for up to four (4) families, including accessory buildings for those dwellings.

(2) Any dwellings in the area are not permanently occupied and are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) Parcels of property in the area:

(A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or

(B) are owned by a unit of local government.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the

1 additional findings described in this subsection or one (1) of the
2 additional findings described in subsection (c).

3 (c) In a county containing a consolidated city or within a city or
4 town, a designating body that wishes to designate a particular area a
5 residentially distressed area may make the following additional findings
6 as an alternative to the additional findings described in subsection (b):

7 (1) A significant number of dwelling units within the area are not
8 permanently occupied or a significant number of parcels in the
9 area are vacant land.

10 (2) A significant number of dwelling units within the area are:

11 (A) the subject of an order issued under IC 36-7-9; or

12 (B) evidencing significant building deficiencies.

13 (3) The area has experienced a net loss in the number of dwelling
14 units, as documented by census information, local building and
15 demolition permits, or certificates of occupancy, or the area is
16 owned by Indiana or the United States.

17 (4) The area (plus any areas previously designated under this
18 subsection) will not exceed ten percent (10%) of the total area
19 within the designating body's jurisdiction.

20 However, in a city in a county having a population of more than two
21 hundred thousand (200,000) but less than three hundred thousand
22 (300,000), the designating body is only required to make one (1) of the
23 additional findings described in this subsection as an alternative to one
24 (1) of the additional findings described in subsection (b).

25 (d) A designating body is required to attach the following conditions
26 to the grant of a residentially distressed area designation:

27 (1) The deduction will not be allowed unless the dwelling is
28 rehabilitated to meet local code standards for habitability.

29 (2) If a designation application is filed, the designating body may
30 require that the redevelopment or rehabilitation be completed
31 within a reasonable period of time.

32 (e) To make a designation described in subsection (a) or (b), the
33 designating body shall use procedures prescribed in section 2.5 of this
34 chapter.

35 (f) The property tax deductions provided by sections 3 and 4.5 of
36 this chapter are only available within an area which the designating
37 body finds to be an economic revitalization area.

38 (g) The designating body may adopt a resolution establishing

1 general standards to be used, along with the requirements set forth in
 2 the definition of economic revitalization area, by the designating body
 3 in finding an area to be an economic revitalization area. The standards
 4 must have a reasonable relationship to the development objectives of
 5 the area in which the designating body has jurisdiction. The following
 6 three (3) sets of standards may be established:

7 (1) One (1) relative to the deduction under section 3 of this
 8 chapter for economic revitalization areas that are not residentially
 9 distressed areas.

10 (2) One (1) relative to the deduction under section 3 of this
 11 chapter for residentially distressed areas.

12 (3) One (1) relative to the deduction allowed under section 4.5 of
 13 this chapter.

14 (h) A designating body may impose a fee for filing a designation
 15 application for a person requesting the designation of a particular area
 16 as an economic revitalization area. The fee may be sufficient to defray
 17 actual processing and administrative costs. However, the fee charged
 18 for filing a designation application for a parcel that contains one (1) or
 19 more owner-occupied, single-family dwellings may not exceed the cost
 20 of publishing the required notice.

21 (i) In declaring an area an economic revitalization area, the
 22 designating body may:

23 (1) limit the time period to a certain number of calendar years
 24 during which the **economic revitalization** area shall be so
 25 designated;

26 (2) limit the type of deductions that will be allowed within the
 27 economic revitalization area to either the deduction allowed under
 28 section 3 of this chapter or the deduction allowed under section
 29 4.5 of this chapter;

30 (3) limit the dollar amount of the deduction that will be allowed
 31 with respect to new manufacturing equipment, new research and
 32 development equipment, new logistical distribution equipment,
 33 and new information technology equipment if a deduction under
 34 this chapter had not been filed before July 1, 1987, for that
 35 equipment;

36 (4) limit the dollar amount of the deduction that will be allowed
 37 with respect to redevelopment and rehabilitation occurring in
 38 areas that are designated as economic revitalization areas on or

1 after September 1, 1988; or

2 (5) impose reasonable conditions related to the purpose of this
 3 chapter or to the general standards adopted under subsection (g)
 4 for allowing the deduction for the redevelopment or rehabilitation
 5 of the property or the installation of the new manufacturing
 6 equipment, new research and development equipment, new
 7 logistical distribution equipment, or new information technology
 8 equipment.

9 To exercise one (1) or more of these powers, a designating body must
 10 include this fact in the resolution passed under section 2.5 of this
 11 chapter.

12 (j) Notwithstanding any other provision of this chapter, if a
 13 designating body limits the time period during which an area is an
 14 economic revitalization area, that limitation does not:

15 (1) prevent a taxpayer from obtaining a deduction for new
 16 manufacturing equipment, new research and development
 17 equipment, new logistical distribution equipment, or new
 18 information technology equipment installed ~~before January 1,~~
 19 ~~2006;~~ but after the expiration of the economic revitalization area
 20 if:

21 (A) the economic revitalization area designation expires after
 22 December 30, 1995; and

23 (B) the new manufacturing equipment, new research and
 24 development equipment, new logistical distribution equipment,
 25 or new information technology equipment was described in a
 26 statement of benefits submitted to and approved by the
 27 designating body in accordance with section 4.5 of this chapter
 28 before the expiration of the economic revitalization area
 29 designation; or

30 (2) limit the length of time a taxpayer is entitled to receive a
 31 deduction to a number of years that is less than the number of
 32 years designated under section 4 or 4.5 of this chapter.

33 (k) Notwithstanding any other provision of this chapter, deductions:

34 (1) that are authorized under section 3 of this chapter for property
 35 in an area designated as an urban development area before March
 36 1, 1983, and that are based on an increase in assessed valuation
 37 resulting from redevelopment or rehabilitation that occurs before
 38 March 1, 1983; or

(2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

(l) If property located in an economic revitalization area is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax deduction provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

SECTION 3. IC 6-1.1-12.1-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.6. (a) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter before July 1, 1991. In addition to the requirements of ~~section 5.5(b)~~ **section 5.4(b)** of this chapter, a deduction application filed under ~~section 5.5~~ **section 5.4** of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

(b) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter after June 30, 1991. In addition to the requirements of ~~section 5.5(b)~~ **section 5.4(b)** of this chapter, a property owner who files a deduction application under ~~section 5.5~~ **section 5.4** of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter.

(c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following information is a public record if filed under this section:

- 1 (1) The name and address of the taxpayer.
- 2 (2) The location and description of the new manufacturing
- 3 equipment, new research and development equipment, new
- 4 logistical distribution equipment, or new information technology
- 5 equipment for which the deduction was granted.
- 6 (3) Any information concerning the number of employees at the
- 7 facility where the new manufacturing equipment, new research
- 8 and development equipment, new logistical distribution
- 9 equipment, or new information technology equipment is located,
- 10 including estimated totals that were provided as part of the
- 11 statement of benefits.
- 12 (4) Any information concerning the total of the salaries paid to
- 13 those employees, including estimated totals that were provided as
- 14 part of the statement of benefits.
- 15 (5) Any information concerning the amount of solid waste or
- 16 hazardous waste converted into energy or other useful products by
- 17 the new manufacturing equipment.
- 18 (6) Any information concerning the assessed value of the new
- 19 manufacturing equipment, new research and development
- 20 equipment, new logistical distribution equipment, or new
- 21 information technology equipment including estimates that were
- 22 provided as part of the statement of benefits.
- 23 (d) The following information is confidential if filed under this
- 24 section:
- 25 (1) Any information concerning the specific salaries paid to
- 26 individual employees by the owner of the new manufacturing
- 27 equipment, new research and development equipment, new
- 28 logistical distribution equipment, or new information technology
- 29 equipment.
- 30 (2) Any information concerning the cost of the new manufacturing
- 31 equipment, new research and development equipment, new
- 32 logistical distribution equipment, or new information technology
- 33 equipment.".
- 34 Page 2, between lines 12 and 13, begin a new paragraph and insert:
- 35 "SECTION 5. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE
- 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 37 JANUARY 1, 2005 (RETROACTIVE)]:
- 38 **Chapter 29. State New Markets Tax Credit**

1 **Sec. 1. As used in this chapter, "applicable percentage" means**
2 **the following:**

3 **(1) One percent (1%) for the first three (3) credit allowance**
4 **dates.**

5 **(2) Two percent (2%) for the remainder of the credit**
6 **allowance dates.**

7 **Sec. 2. As used in this chapter, "certified equity investment"**
8 **refers to a qualified equity investment certified under this chapter**
9 **for a tax credit.**

10 **Sec. 3. As used in this chapter, "credit" refers to a state new**
11 **markets tax credit granted under this chapter against state tax**
12 **liability.**

13 **Sec. 4. As used in this chapter, "credit allowance date" means**
14 **the following with respect to any certified equity investment:**

15 **(1) The date on which the certified equity investment is**
16 **initially made.**

17 **(2) Each of the six (6) annual anniversary dates immediately**
18 **following the date described in subdivision (1).**

19 **Sec. 5. As used in this chapter, "holder", with respect to a credit**
20 **allowance date, refers to one (1) of the following:**

21 **(1) The taxpayer or pass through entity that makes the**
22 **original qualified equity investment, if the taxpayer or pass**
23 **through entity owns the qualified equity investment on a**
24 **credit allowance date.**

25 **(2) A subsequent taxpayer or pass through entity that owns**
26 **the qualified equity investment on a credit allowance date.**

27 **Sec. 6. As used in this chapter, "pass through entity" means a:**

28 **(1) corporation that is exempt from the adjusted gross income**
29 **tax under IC 6-3-2-2.8(2);**

30 **(2) partnership;**

31 **(3) trust;**

32 **(4) limited liability company; or**

33 **(5) limited liability partnership.**

34 **Sec. 7. As used in this chapter, "qualified equity investment" has**
35 **the meaning set forth in Section 45D of the Internal Revenue Code.**

36 **Sec. 8. As used in this chapter, "qualified low-income**
37 **community investments" has the meaning set forth in Section 45D**
38 **of the Internal Revenue Code.**

1 **Sec. 9. As used in this chapter, "state tax liability" means a**
 2 **taxpayer's total tax liability that is incurred under:**

3 **(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**

4 **(2) IC 27-1-18-2 (the insurance premiums tax); and**

5 **(3) IC 6-5.5 (the financial institutions tax);**

6 **as computed after the application of the credits that under**
 7 **IC 6-3.1-1-2 are to be applied before the credit provided by this**
 8 **chapter.**

9 **Sec. 10. As used in this chapter, "taxpayer" means an**
 10 **individual, a corporation, a partnership, or another entity that has**
 11 **any state tax liability.**

12 **Sec. 11. Subject to this chapter, a taxpayer that:**

13 **(1) holds a certified equity investment on a credit allowance**
 14 **date; and**

15 **(2) does not receive another credit under this article for the**
 16 **same certified equity investment;**

17 **is entitled to a state new markets tax credit in the taxable year in**
 18 **which the credit allowance date occurs against the taxpayer's state**
 19 **tax liability for the taxable year.**

20 **Sec. 12. The amount of the credit in a taxable year is equal to the**
 21 **amount determined under STEP THREE of the following formula:**

22 **STEP ONE: Determine the amount of the qualified equity**
 23 **investment that is:**

24 **(A) held by the taxpayer on the credit allowance date in the**
 25 **taxable year; and**

26 **(B) certified under this chapter as a certified equity**
 27 **investment.**

28 **STEP TWO: Multiply the STEP ONE amount by the**
 29 **applicable percentage for the credit allowance date.**

30 **STEP THREE: Multiply the STEP TWO amount by:**

31 **(A) the tax credit adjustment factor approved by the**
 32 **department of tourism and community development**
 33 **established by P.L.224-2003 under this chapter; or**

34 **(B) eighty-five hundredths (0.85), if clause (A) does not**
 35 **apply.**

36 **Sec. 13. (a) If:**

37 **(1) a pass through entity does not have state income tax**
 38 **liability against which the tax credit provided by this chapter**

1 may be applied; and

2 (2) the pass through entity would be eligible for a tax credit
3 under this chapter if the pass through entity were a taxpayer;
4 a shareholder, partner, or member of the pass through entity is
5 entitled to a tax credit under this chapter.

6 (b) Subject to this chapter, the amount of the tax credit to which
7 a shareholder, partner, or member of a pass through entity is
8 entitled is equal to:

9 (1) the tax credit determined for the pass through entity for
10 the taxable year as if the pass through entity were a taxpayer
11 with state tax liability in the amount of the tax credit;
12 multiplied by

13 (2) the percentage of the pass through entity's distributive
14 income to which the shareholder, partner, or member is
15 entitled.

16 Sec. 14. (a) If the amount of the tax credit provided under this
17 chapter for a taxpayer in a taxable year exceeds the taxpayer's
18 state tax liability for that taxable year, the taxpayer may carry the
19 excess over to not more than three (3) subsequent taxable years.
20 The amount of the tax credit carryover from a taxable year shall
21 be reduced to the extent that the carryover is used by the taxpayer
22 to obtain a tax credit under this chapter for any subsequent taxable
23 year.

24 (b) A taxpayer is not entitled to a carryback or refund of any
25 unused tax credit.

26 Sec. 15. (a) To receive the tax credit for a qualified investment
27 under this chapter, a taxpayer or a pass through entity must:

28 (1) make a qualified equity investment; and

29 (2) be certified by the department of tourism and community
30 development to receive a tax credit for the qualified equity
31 investment.

32 (b) The department of tourism and community development shall
33 establish a program to certify qualified equity investments as
34 eligible for a tax credit.

35 (c) The amount of tax credits allowed under this chapter in a
36 state fiscal year may not exceed the following amounts for the
37 indicated fiscal years:

38 FISCAL YEAR	AMOUNT
-------------------------	--------

1	2005	\$870,000
2	2006	\$870,000
3	2007	\$870,000
4	2008	\$1,740,000
5	2009	\$1,740,000
6	2010	\$1,740,000
7	2011	\$1,740,000

8 (d) Applicants for a tax credit that:

- 9 (1) make a qualified equity investment;
- 10 (2) are eligible to receive a federal tax credit under Section 45D
- 11 of the Internal Revenue Code for the qualified equity
- 12 investment; and
- 13 (3) apply to the department of tourism and community
- 14 development in the manner and on the form prescribed by the
- 15 department of tourism and community development;

16 shall be certified for a tax credit in the amount of each applicant's

17 qualified equity investment in the order in which the applicants

18 apply to the department of tourism and community development

19 for tax credits until the maximum amount of tax credits allowed

20 under this section for a state fiscal year has been allocated among

21 qualifying applicants. However, the department of tourism and

22 community development may provide a procedure for an applicant

23 denied a tax credit solely as a result of the cap imposed by this

24 subsection to be given priority in the award of a tax credit in a

25 subsequent state fiscal year.

26 (e) The certification of a tax credit under this section applies only

27 to credit allowance dates that occur after the certification is made.

28 (f) If the state new markets tax credits allocated to the taxpayer

29 or pass through entity are disallowed or recaptured under this

30 chapter, the department of tourism and community development

31 may reallocate the unused tax credits to another qualified applicant

32 in the order in which qualifying applications are filed with the

33 department of tourism and community development.

34 (g) The department of tourism and community development shall

35 notify an applicant by letter of the certification of a tax credit

36 under this section.

37 Sec. 16. (a) A taxpayer or pass through entity that holds a

38 certified equity investment may apply to the department of tourism

1 and community development to establish the tax credit adjustment
2 factor that applies to the taxpayer or pass through entity.

3 (b) The department of tourism and community development shall
4 establish a program to approve tax credit adjustment factors under
5 this section for qualifying applicants. The department of tourism
6 and community development may provide a procedure for
7 combining an application for a tax credit for a qualified investment
8 under section 15 of this chapter with an application for a tax credit
9 adjustment factor under this section.

10 (c) If the applicant applies for the tax credit adjustment factor in
11 the manner and on the form prescribed by the department of
12 tourism and community development, the department of tourism
13 and community development shall approve a tax credit adjustment
14 factor for the applicant that is equal to the percentage of the total
15 gross assets of the entity in which the certified equity investment
16 was made that the department of tourism and community
17 development determines are invested by the entity in qualified low
18 income community investments.

19 (d) An approval granted under this section applies to the taxable
20 years specified by the department of tourism and community
21 development.

22 Sec. 17. To receive the tax credit under this chapter, a taxpayer
23 must claim the credit on the taxpayer's annual state tax return or
24 returns in the manner prescribed by the department. A taxpayer
25 claiming a credit under this chapter shall submit to the department
26 a copy of the certification letter issued by the department of
27 tourism and community development under section 15 of this
28 chapter and any state new markets tax credit adjustment approval
29 letter provided under this chapter. The taxpayer shall submit to the
30 department the information that the department determines is
31 necessary for the department to determine whether the taxpayer is
32 eligible for the tax credit.

33 Sec. 18. (a) The holder of a certified equity investment shall notify
34 the department and the department of tourism and community
35 development if the federal tax credit granted for the certified
36 equity investment under Section 45D of the Internal Revenue Code
37 is disallowed or otherwise recaptured under Section 45D of the
38 Internal Revenue Code.

(b) If the federal tax credit is disallowed or otherwise recaptured, the department or the department of tourism and community development may:

- (1) disallow the use of a part of the unused tax credits;
- (2) recapture a part of the tax credit that has been applied to the state tax liability of a taxpayer; or
- (3) both disallow under subdivision (1) and recapture under subdivision (2).

The percentage of the tax credit that may be disallowed and recaptured under this subsection is equal to the percentage of the total federal credit that is disallowed or otherwise recaptured under Section 45D of the Internal Revenue Code.

Sec. 19. The department or the department of tourism and community development, or both, may adopt rules under IC 4-22-2 necessary to carry out the purposes of this chapter, including rules to facilitate the transfer of credits earned under this chapter."

Page 18, after line 27, begin a new paragraph and insert:

"SECTION 9. IC 36-12-7-8, AS ADDED BY HEA 1288-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) ~~For~~ **As used in this section:**

- (1) "county fiscal body" means the fiscal body of a county in which a private donation library is located;
- (2) "library board" means a library board established under IC 20-14 in a county in which a private donation library is located; and
- (3) "private donation library" means a public library: ~~established:~~

~~(1)~~ (A) established by private donation;

~~(2)~~ (B) located in a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

~~(3)~~ (C) that contains at least twenty-five thousand (25,000) volumes;

~~(4)~~ (D) that has real property valued at at least one hundred thousand dollars (\$100,000); and

~~(5)~~ (E) that is open and free to the residents of the city.

~~a tax shall be levied and collected annually by the city according to IC 6-1.1.~~

- 1 (b) The ~~city legislative body~~ **library board** shall:
- 2 (1) ~~levy the a tax required under subsection (a) IC 6-1.1~~ in an
- 3 amount not less than sixty-seven hundredths of one cent (\$0.0067)
- 4 and not more than one and sixty-seven hundredths cents (\$0.0167)
- 5 on each one hundred dollars (\$100) of the assessed valuation of all
- 6 the real and personal property in the ~~city~~. ~~When the city levies the~~
- 7 ~~tax, the library under subsection (a) shall be treated as if the library~~
- 8 ~~were a public library for purposes of IC 6-1.1-18.5-13, and the~~
- 9 ~~legislative body may increase the legislative body's levy to the~~
- 10 ~~same extent as a public library under IC 6-1.1-18.5-13.~~ **county;**
- 11 (2) **keep the tax levied under subdivision (1) separate from all**
- 12 **other funds of the library board; and**
- 13 (3) **use the tax levied under subdivision (1):**
- 14 (A) **if the membership of the trustees of the private donation**
- 15 **library includes at least one (1) member or appointee of the**
- 16 **library board and at least one (1) appointee of the county**
- 17 **fiscal body, for distributions of the full amounts of the tax**
- 18 **received to the trustees of the private donation library at the**
- 19 **time the tax is received by the library board; or**
- 20 (B) **if the membership of the trustees of the private donation**
- 21 **library does not include at least one (1) member or appointee**
- 22 **of the library board and at least one (1) appointee of the**
- 23 **county fiscal body, at the discretion of the library board for:**
- 24 (i) **library board purposes; or**
- 25 (ii) **quarterly distributions to the trustees of the private**
- 26 **donation library.**
- 27 (c) **The trustees of the private donation library shall annually**
- 28 **submit a budget to the library board for review.**
- 29 ~~(c)~~ (d) ~~The tax shall be paid to the trustees of the private donation~~
- 30 ~~library~~ **The trustees shall expend the tax amounts received under**
- 31 **subsection (b)(3)(A) or (b)(3)(B)(ii) for the support, operation, and**
- 32 **maintenance of the private donation library. The trustees shall:**
- 33 (1) **keep the tax money separate from all other funds; ~~The trustees~~**
- 34 **shall**
- 35 (2) **record:**
- 36 ~~(1)~~ (A) **the amount of taxes money received;**
- 37 ~~(2)~~ (B) **to whom and when the money is paid out; and**
- 38 ~~(3)~~ (C) **for what purpose the money is used;**

1 in a book kept by the trustees; ~~The trustees shall and~~
 2 (3) make an annual report of the matters ~~under this subsection~~
 3 ~~referred to in subdivision (2)~~ to the ~~legislative body of the city.~~
 4 library board.

5 (e) For purposes of the property tax levy limits under
 6 IC 6-1.1-18.5, the tax levied by the library board under subsection
 7 (b)(1) is not included in the calculation of the maximum permissible
 8 property tax levy for the public library.

9 SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE
 10 JULY 1, 2005]: IC 6-1.1-12.1-2.3; IC 6-1.1-12.1-9.

11 SECTION 11. [EFFECTIVE JULY 1, 2005] **Notwithstanding the**
 12 **amendments to IC 6-1.1-12.1 made by this act, deductions that**
 13 **were approved under IC 6-1.1-12.1 before July 1, 2005, remain in**
 14 **effect after June 30, 2005, according to the provisions of**
 15 **IC 6-1.1-12.1 as they existed on June 30, 2005.**

16 SECTION 12. [EFFECTIVE JANUARY 1, 2005
 17 (RETROACTIVE)]: **The definitions in IC 6-3.1-29, as added by this**
 18 **act, apply throughout this SECTION. IC 6-3.1-29, as added by this**
 19 **act, applies only to:**

- 20 (1) **qualified equity investments made; and**
- 21 (2) **taxable years beginning;**
- 22 **after December 31, 2004.**

23 SECTION 13. [EFFECTIVE JULY 1, 2005] **IC 36-12-7-8, as**
 24 **amended by this act, applies only to property taxes first due and**
 25 **payable after December 31, 2005.**

26 SECTION 14. **An emergency is declared for this act."**

27 Renumber all SECTIONS consecutively.

(Reference is to HB 1182 as printed January 14, 2005.)

and when so amended that said bill be reassigned to the Senate Committee on Tax and Fiscal Policy.

Committee Vote: Yeas 8, Nays 0.

Ford

Chairperson